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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. William Kennard
Chairman Designate
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

97-192

Ex Parte Letter Re: Cases WT-97-197, MM Docket 97-182, and
DA 96-2140

Dear Mr. Kennard:

I have been involved in telecommunications, cable and zoning issues with my City for the past nine years. I believe that it is not necessary for the FCC to preempt local authority because cities can work with the industry to come up with uniquely local solutions to any zoning problem. Local jurisdictions are in need of help from the FCC and like federal agencies rather than preemption because local communities, building conditions, weather, concerns, needs and interests are too diverse for a national policy on construction of anything but state highways. Let me give you an example of how local discussion can be of benefit to providers of telecommunications and ultimately any vendor who wishes to do business in an area.

In Springfield, Missouri, we recently passed a cellular tower ordinance that was written with input from all local users of tower space and owners of that space. We came up with ideas to create additional antenna space on existing structures that had previously not been available because of zoning restrictions. Now, providers have the choice of building a tower or using an existing structure. Although our first meeting involved over fifty providers with many concerns and complaints about our draft ordinance, the night of the public hearing before Council not one person spoke in opposition. This was because we listened and acted to preserve local interests of tower users, owners and adjacent property owners. Our ordinance will be unique to our community and this is what works best for communities.

There is also no need to stifle public comment at tower public hearings. Only by listening to everyone's thoughts can the best ordinance or action be taken. The First Amendment requires that government listen and not prevent speech. However, in one of the proceedings before the FCC, citizens will be prohibited from

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mentioning radiation from towers. Why? This is not necessary as long as the local government does not act on this input illegally. The right of free speech is one of our most important ones, and I would ask that the FCC do nothing to stifle that right.

With respect to broadcasting towers, there is no pressing National emergency such as a war that would justify rushing safety concerns of our citizens and requiring "pocket approvals" of any application for any structure if a city or county cannot review that in a timely fashion. The luxury of better television viewing can wait on discussions of health, safety and environmental concerns. Adjacent property owners have rights regarding the value of their property, the safety to themselves and to speak out at public hearings. Arbitrary time lines take away those individual rights. Our nation should not put entertainment ahead of the value of individual citizens and their wants and health. Cancer or other risks should never be used as a measure of what is or is not acceptable for deployment of technology. We are better than this as a people and a country and I ask that the FCC conduct itself and use its authority to reflect just what kind of nation we are.

I also ask that the FCC make itself available as a resource to assist cities and counties in drafting appropriate ordinances for that locality. I am willing to assist the FCC in any way I can to develop the dialogue and find the solutions.

Thank you in advance for your consideration of my thoughts.

Sincerely,



Nancy K. Yendes
Assistant City Attorney

cc: Mr. William F. Caton
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